

### **Remarks**

Claims 1-14 and 21-34 are pending in this application. Claims 1-14 and 21-34 have been rejected. Claims 12 and 32 are cancelled.

#### **Claim Rejections - 35 U.S.C. § 101**

Claims 1-14 are rejected under 35 U.S.C. § 101 based on Supreme Court precedent and recent Federal Circuit decisions.

Claims 1-14 have been amended to recite a computer readable medium encoded with the method of original claims 1-14.

Accordingly, claims 1-14 are allowable as amended over 35 U.S.C. § 101 based on Supreme Court precedent and recent Federal Circuit decisions.

#### **Claim Rejections - 35 U.S.C. § 112**

Claims 12 and 32 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 12 and 32 are cancelled thereby rendering the present rejection moot.

#### **Claim Rejections - 35 U.S.C. § 102**

Claims 1-14 and 21-34 are rejected under 35 U.S.C. § 102(b) as being anticipated by Binns et al. (U.S. 7,392,201).

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Applicant traverses the present rejection for the following reasons. The present invention is directed to the determination of incurred but not yet reported (IBNR) claim liability. In contrast, Binns, et.al. is directed towards estimating costs for purposes of pricing stop loss insurance. The methods disclosed in Binns have nothing to do with **calculation** of IBNR reserves. The January 8, 2009 Office Action (the Office Action) states:

With respect to claim 1 and 21 Binns teaches a method for estimating incurred but not yet paid (IBNP) claim amounts, the method comprising: a) accessing a set of historical data for each of a plurality of incurred periods and paid periods prior to a valuation date, an incurred period being a time period in which a claim is incurred and a paid period being a time period in which the incurred claim is paid, the set of historical data comprising a paid lag claim amount for each combination of incurred and paid periods, the paid lag claim amount being a total actual amount of claims incurred in a given incurred period and paid a given lag time later in a given paid period, the lag time being a measure of elapsed time from a point in the given incurred period to the given paid period (see for example Binns Column 21 lines 24-31 and column 22 lines 8-15);

The Office Action recites language from the claims of the present invention and states by fiat that these elements are present in Binns. However, review of these passages show that these elements are not present in Binns:

In a preferred embodiment, this data may preferably be in the form of five different data files that are linked by an encrypted identifier. The identifier should include unique characters for the company, family, and person. The data files should include group-level information, person-level information, detailed medical claims information (e.g., hospital, physician, durable medical equipment, home health, etc.), detailed pharmacy claims and capitation information, if germane.

Binns col. 21, 15-17

3. Medical claims (claim-level)

a. Person/company identifier

b. Service line-level information: i. Billed charges, covered charges, payments, amounts applied to deductibles, coinsurance, co-pays, and out-of-network penalties, amounts of COB,

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pre-existing, capitation payments and other cutbacks ii.  
Dates--incurred, entered, and paid

Binns col. 21, 15-17

Inspection of the cited Binns sections reveals no connection with lag claims. The concept of a lag claim has a precise meaning in the insurance industry as explained by the Specification:

All or a portion of the claim will be paid by the insurance company at some time after the claim was incurred. That is, a claim lag time exists during which such things as claims reporting and processing occurs. For this reason, the actual amount of IBNP claims is unknown on any particular valuation date. The liability reserve amount is an estimated amount of incurred but not yet paid claims as of a valuation date for which the company is liable for payment.

Specification, p. 1, ll. 24-28

The failure of Binns to disclose a method of calculating IBNP or to consider claim lag in that context is reasonable since Binns is directed to determining costs for purposes of pricing stop loss insurance which is different than IBNP.

The Office Action goes on to provide a similar inappropriate analysis with respect to other claim elements:

b) identifying a functional relationship between cumulative paid lag claim amounts and paid lag claim amounts, wherein the functional relationship has one or more adjustable parameters, the cumulative paid lag claim amounts are independent variables with a cumulative paid lag claim amount for a selected incurred period being the sum of paid lag claim amounts for one or more paid periods or the sum of paid lag claim amounts for one or more paid periods multiplied by a weighting factor, and the paid lag claim amounts are dependent variables (see for example Binns column 13 lines 51-60);

Again, inspection of the cited Binns passages reveal no connection to the claims of the present invention:

The most recent year of person-level medical claim data for the individuals of a particular book of business for which an accurate cost forecast is desired may be processed by this model, to produce an accurate projected cost for policy pricing, as will be described. Future cost trend estimates (inflation) are adjusted for each individual's characteristics and applied to the person-level estimates. Person-level cost forecasts are summarized to the family-level or group-level and family or group-level characteristics are used to adjust the summarized cost to produce the adjusted family or group-level cost forecast.

Binns, col. 13 ll. 51-60

The cited passage does not discuss claim lags nor have anything to do with IBNPs. Instead, this section deals with calculating contingency reserves. Therefore, the notion of calculating a functional relationship between “cumulative paid lag claim amounts and paid lag claim amounts” is not possible in Binns. Applicant invites the Examiner to point out where in Binns is the concept of cumulative paid lag claim amounts and paid lag claim amounts disclosed?

Finally, the Office Action provides the following analysis:

c) adjusting the one or more adjustable parameters to obtain optimized parameters such that a predetermined function of differences between calculated paid lag claim amounts and actual paid lag claim amounts is minimized (see for example Binns column 13 lines 51-64); and d) estimating IBNP claim amounts for each combination of incurred periods and paid periods after the valuation date, the estimated IBNP claim amounts being a projected paid claim amount calculated from the functional relationship with the optimized parameters of step c), for each paid period after the valuation date, from the cumulative paid lag claim amounts for each incurred period as of the valuation date (see for example Binns column 13 lines 51-64 and column 14 lines 3-10).

For the sake of brevity, the cited passages will not be reproduced. However, once again the Office Action engages in an “apples and oranges” analysis since Binns does not provide a method of calculating IBNRs. Instead, these passages are directed to determining contingency reserves which is known in the insurance industry to be different than IBNR reserves.

It should be noted that Binns does mention IBNR since this is a known concept in the insurance industry. However, Binns does not provide a methodology for its determination.

Accordingly, for at least these reasons, claims 1-14 and 21-34 are allowable under 35 U.S.C. § 102(b) over Binns.

**Conclusion**

Applicant has made a genuine effort to respond to each of the Examiner's objections and rejections in advancing the prosecution of this case. Applicant believes that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested. If any additional issues need to be resolved, the Examiner is invited to contact the undersigned at his earliest convenience.

The Petition fee of \$245.00 is being charged to Deposit Account No. 02-3978 via electronic authorization submitted concurrently herewith. The Commissioner is hereby authorized to charge any additional fees or credit any overpayments as a result of the filing of this paper to Deposit Account No. 02-3978.

Respectfully submitted,

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